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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/931,296      | 08/16/2001  | Rabindranath Dutta   | AUS920010531        | 3181             |

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 Darcell Walker  
 8107 Carvel Lane  
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EXAMINER

FILIPCZYK, MARCIN R

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2161

DATE MAILED: 03/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/931,296

Applicant(s)

DUTTA ET AL.

Examiner

Marc R Filipczyk

Art Unit

2161

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 5 and 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-11 and 13-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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***Response to Amendment***

This action is responsive to Applicant's response filed on September 8, 2004 wherein claims 5 and 12 have been canceled and claims 1-4, 6-11 and 13-28 are pending

***Oath/Declaration***

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

**It does not identify the mailing address** of each inventor. A mailing address is an address at which an inventor customarily receives his or her mail and may be either a home or business address. The mailing address should include the ZIP Code designation. The mailing address may be provided in an application data sheet or a supplemental oath or declaration. See 37 CFR 1.63(c) and 37 CFR 1.76.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Bentley et al (U.S. Patent No. 6,341,291).

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Regarding claims 1, 10, 11, 16, 17, 22, 23 and 28, Bentley discloses a program, method and system for maintaining, accessing and executing legacy computer software programs stored in a central location comprising: (fig. 10)

a database created for storing multiple types of software programs (fig. 10, items 2 and 3, and col. 2, lines 20-29), developed over a period of time, each software program being stored as a separate and independent software program; (col. 17, lines 35-45)

a computing device connected to said database capable of interacting with said database for the purpose of retrieving and executing software programs stored in said database; (fig. 10, items 1 and 4; col. 15, lines 10-15)

a interface device connected to computing device for interacting with said computing device; (fig. 10, item 20) and

a computing network for connecting said interface device and said computing device.  
(fig. 10, *COMPUTER NETWORK*)

Regarding claims 2 and 12, Bentley discloses multiple software programs, each software program being capable of executing in a computing environment. (col. 15, lines 29-32)

Regarding claims 3 and 13, Bentley discloses software programs are stored in software directories according to the type of software program. (col. 17, lines 63-66)

Regarding claims 4 and 15, Bentley discloses software directories include directories for operating system programs, application programs and utility programs. (col. 18, lines 8-15)

Regarding claims 5 and 14, Bentley discloses links that connect set of previously identified software programs such that the connected software programs can be accessed sequentially. (col. 17, lines 29-34)

Regarding claim 6, Bentley discloses the interface is a computer terminal. (fig. 10, item 20)

Regarding claim 7, Bentley discloses the computing device is a server. (fig 10, items 1 and 3)

Regarding claim 8, Bentley discloses said server comprises a cpu, memory, simulator and software retrieval programs. (fig. 6, items 208, 210, 212 and 214)

Regarding claim 9, Bentley discloses multiple interface devices capable of interacting with a server. (fig. 10)

Regarding claims 18-21 and 24-27, Bentley discloses a server and database for executing software programs. (fig. 10, items 1-4)

***Response to Arguments***

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Applicant's arguments filed September 8, 2004 have been fully considered but they are not persuasive. The arguments and responses are listed below.

On page 9 of the 9/8/04 response, Applicants allege overcoming the defective Oath/Declaration by submitting an Application Data Sheet providing the mailing address of each inventor.

Examiner disagrees. Application Data Sheet or an amended Oath/Declaration has not been received by the office therefore the rejection to the Oath/Declaration is outstanding.

On page 11 of the 9/8/04 response, Applicant argues that Bentley stores design models which may be software, but unlike the Applicant's invention, these models can be retrieved and modified.

Examiner disagrees. It appears that the Applicant's have misunderstood the Bentley system. Bentley system stores multiple components independently in a (repository) CDB, wherein **each** component comprises a program, see col. 2, lines 20-29 and fig. 10, as claimed by the Applicant. Advantageously, Bentley also stores a History File if any changes are made to the components, depending on the system implementation. Clearly, multiple software programs are stored by server 1 and used by clients 20, see fig. 10.

On page 12 of the 9/8/04 response, the Applicant has indicated that two independent claims are added and that two independent claims have also been withdrawn.

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Examiner disagrees. According to the documents of record, no new claims have been added.

With respect to all the pending claims 1-4, 6-11 and 13-28, Examiner respectfully traverses Applicant's assertion based on the discussion and rejections cited above.

### ***Conclusion***

To expedite the process of examination Examiner requests that all future correspondences in regard to overcoming prior art rejections or other issues (e.g. 35 U.S.C. 112, objections and the like) set forth by the Examiner that Applicants provide and link to the most specific page and line numbers of the disclosure where the best support is found (see 35 U.S.C. 132).

### **THIS ACTION IS MADE FINAL.**

Applicant's amendment at least to claims 1, 10, 16, 22 and 28 necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc R Filipczyk whose telephone number is (571) 272-4019.

The examiner can normally be reached on Mon-Fri, 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on (571) 272-4023. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MF

February 16, 2005

  
**FRANTZ COBY**  
**PRIMARY EXAMINER**